

A091 (Rev. 8/01) Criminal Complaint

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS**

Clerk, U.S. District Court  
Southern District of Texas  
FILED

FEB 18 2015

David J. Bradley, Clerk of Court

UNITED STATES OF AMERICA  
V.

**Joe Guadalupe GARCIA**

**CRIMINAL COMPLAINT**

Case Number: **C-15-186m-1**

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about 2/17/2015 in Brooks County, in the

(Date)

Southern District of Texas defendant(s), **Joe Guadalupe GARCIA**

did knowingly or in a reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law

in violation of Title 8 United States Code, Section(s) 1324.  
I further state that I am a(n) Border Patrol Agent and that this complaint is based on the following facts:  
Official Title

See Attached Affidavit of U.S. Border Patrol Agent

**David Smith**

Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No

David Smith BPA  
Signature of Complainant

David Smith  
Printed Name of Complainant

Sworn to before me and signed in my presence and probable cause found on:

February 18, 2015  
Date  
Jason B. Libby, U.S. Magistrate Judge  
Name and Title of Judicial Officer

at

Corpus Christi, Texas  
City and State  
[Signature]  
Signature of Judicial Officer

## Affidavit

The information contained in this report/affidavit is based upon my personal participation in the investigation, which included, but is not limited to information related to me by other agents and officers participating in the investigation.

On February 16, 2015, Falfurrias Border Patrol Agents encountered and arrested Joe Guadalupe GARCIA at the Falfurrias Border Patrol Checkpoint transporting eleven undocumented aliens in a tractor-trailer.

On February 16, 2015, Border Patrol Agent Jenna McLean was performing primary inspection duties at the U.S. Border Patrol Checkpoint, located 13 miles south of Falfurrias, Texas alongside Border Patrol Agent Oscar Martinez and his service canine "Sharma". At approximately 11:40p.m., a blue Peterbilt tractor with Texas license plate R089485 entered her primary lane of inspection. When the tractor-trailer came to a stop, BPA McLean questioned the driver, later identified as Joe Guadalupe GARCIA, regarding his citizenship and what he was hauling. He stated he was hauling mixed produce and heading to Houston, Texas. BPA McLean asked GARCIA where he loaded the trailer. GARCIA stated he did not load it, but picked it up already loaded. GARCIA stated that he picked up the loaded trailer and then took it to the Flying J Truck Stop in Edinburg, Texas.

GARCIA stated he left the tractor and trailer at the truck stop unattended for approximately one hour while he went home to eat. Upon returning to his tractor-trailer at the truck stop, he did not check the trailer before starting his trip to Houston, Texas. As BPA McLean was conducting her immigration inspection, BPA Oscar Martinez was performing a non-intrusive free air sniff of the vehicle's exterior utilizing his service canine "Sharma". At this time, BPA Martinez informed BPA McLean that his service canine was alerting in between the tractor and the trailer and advised BPA McLean to place it in secondary for further inspection. BPA McLean asked GARCIA to move the tracker trailer to the secondary inspection area.

Once in the secondary inspection area, BPA McLean asked GARCIA to exit his tractor in order for the canine to perform a systematic search of the vehicle. A search of the cab of the tractor yielded negative results. BPA McLean then asked GARCIA for consent for further inspection utilizing the backscatter x-ray truck to inspect the trailer and GARCIA consented. An x-ray of the tractor-trailer resulted in anomalies in the trailer which were believed to be bodies. At this point the x-ray was terminated. A total of eleven bodies were found in the refrigerated trailer. After an immigration inspection, all admitted to being illegally present in the United States.

GARCIA and the eleven undocumented aliens were placed under arrest and escorted into the checkpoint.

Once inside the checkpoint, BPA McLean proceeded to read Joe Guadalupe GARCIA his rights in his preferred language of English, as per form I-214. This was witnessed by BPA William Davis. GARCIA was asked if he understood his rights and he stated, "Yes" and proceeded to sign the form. GARCIA did agree to speak without a lawyer present.

GARCIA originally stated that he picked up the tractor-trailer on February 16, 2015 around 6:00 p.m. After picking up the tractor-trailer, GARCIA went to two locations to watch workers load mixed produce. He stated that the trailer that he is hauling is not the trailer he usually hauls, and therefore does not have a key to the lock for the trailer. GARCIA did not ask for the key, or another lock to put on the trailer doors. After loading at the second location, GARCIA said that he went to the Flying J truck stop in Edinburg, Texas, where he parked the tractor-trailer for approximately one hour while he went home to have dinner with his wife. GARCIA stated that he left the tractor-trailer unattended and unlocked during this time, from 10:00p.m. until 11:00p.m. Once GARCIA arrived back at the truck stop, GARCIA did not inspect the tractor or the trailer before starting his trip.

Three of the eleven undocumented aliens provided material witness statements. Jesus Ivan BALANZAR-BENITEZ, Constantino ALONSO-CALDERON, and Aritza Elizabeth DE LA CRUZ-TORRES. All three of their stories coincided with each other. BALANZAR-BENITEZ, ALONSO-CALDERON and DE LA CRUZ-TORRES all stated that after crossing the river and staying at separate stash houses, they were driven to a dark street with few houses on the night of February 16, 2015. When they arrived at this street, a tractor-trailer was parked near a brushy area. They all stated that upon arrival, they were told to enter the dark trailer. Once the last subject arrived, the trailer doors were shut and they began to move. All three material witnesses stated that once the tractor-trailer started to move, it did not stop until it reached the checkpoint where they were discovered. All three stated that they had no way of exiting the trailer in the event of an emergency. The other eight smuggled aliens were asked to describe where they loaded into the tractor trailer and whether the truck made any stops from the time the doors were closed until they were arrested at the checkpoint. They all described the same brushy area next to a street and stated that the vehicle never made any stops after they were inside.

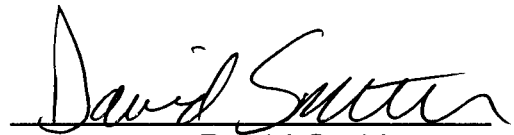
Assistant U.S. Attorney Brittany Jensen was contacted the morning of February 17, 2015 and accepted prosecution of this case for violation of Title 8 USC 1324 (Alien Smuggling) on Joe Guadalupe GARCIA. In an attempt to preserve evidence from the tractor-trailer and determine a time that the truck may have been parked at the Flying J station, BPA David Smith from the RGV Prosecutions North unit responded to the Falfurrias Border Patrol Station. Agent Smith began documenting the evidence and personal effects that was collected by agents during their investigation. He introduced himself to GARCIA at approximately 2:15 p.m. and asked GARCIA if he was still willing to explain some of the events that had occurred the day before. GARCIA was advised of his rights again by Agent Smith and GARCIA signed the form to indicate that he was willing to explain what had happened without a lawyer present.

GARCIA proceeded to tell Agent Smith the same story that he had told the other agents before. He gave Agent Smith times and locations where he parked and was picked up at the Flying J by his wife. He said that the last time he had pulled this particular trailer had been a month prior, sometime between January 1, 2015 and January 14, 2015. At this time, Agent Smith showed GARCIA a copy of a citation in Wharton County, Texas dated February 3, 2015 which he had found in a trucking log binder. The citation showed the same trailer that he was pulling at the time of his arrest at the checkpoint on February 16, 2015.

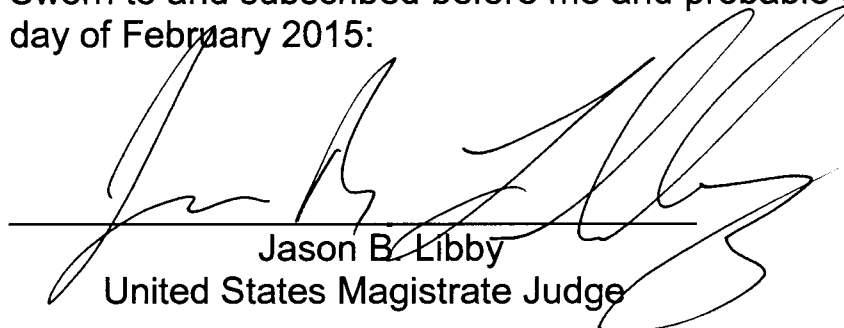
At this time, GARCIA apologized for not having told the truth earlier and stated that he was willing to fully cooperate. He said that he has been working with an unknown group for the last month. GARCIA told Agent Smith that this was his second trip with smuggled aliens using tractor trailers through the Falfurrias Border Patrol Checkpoint. He said that the unknown smugglers threatened to hurt his family if he did not cooperate, however, then paid him \$10,000 for his successful delivery of aliens to Baytown, Texas in January of 2015. GARCIA said that he was expecting money in return for this delivery of smuggled aliens to Houston, Texas, but did not know how much he would receive.

GARCIA said that he waited at a Stripes convenient store in Edinburg, Texas for the smugglers to contact him on a handheld two-way style radio. He was instructed to drive down the street and park. After waiting for an hour, he said that he saw people moving across the street behind his tractor-trailer. GARCIA said that he could hear the back doors opening and hear people moving around and talking in the trailer through the walls. He said that once the group was loaded up by the unknown individuals, the doors were closed again and the lock was placed back onto the truck without the lock being closed all the way, which he called being "dummy locked". GARCIA stated that the trucking company he works for was not involved in any illicit activities and there has been no further evidence to believe otherwise.

Jesus Ivan BALANZAR-Benitez, Constantino ALONSO-Calderon, and Aritza Elizabeth DE LA CRUZ-Torres were held as Material Witnesses. Three additional smuggled aliens in the group were charged with illegal re-entry, 8 USC 1326; Eddy MARTINEZ-Reyes (aka: El Baron), Efren MOYA-Vargas, and Valiente AVALOS-Renteria. All other undocumented aliens were processed accordingly.

  
David Smith  
Border Patrol Agent

Sworn to and subscribed before me and probable cause found on this 18th day of February 2015:

  
Jason B. Libby  
United States Magistrate Judge